

As Introduced

**133rd General Assembly
Regular Session
2019-2020**

S. B. No. 177

**Senators Hottinger, Thomas
Cosponsors: Senators Hackett, Lehner, Yuko**

A BILL

To enact sections 4740.20, 4740.21, 4740.22, 1
4740.23, 4740.24, 4740.25, and 4740.26 of the 2
Revised Code to regulate and require the 3
registration of roofing contractors. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4740.20, 4740.21, 4740.22, 5
4740.23, 4740.24, 4740.25, and 4740.26 of the Revised Code be 6
enacted to read as follows: 7

Sec. 4740.20. As used in sections 4740.20 to 4740.26 of 8
the Revised Code: 9

(A) "Board" means the Ohio construction industry licensing 10
board. 11

(B) "Consumer" means a person who seeks roofing services. 12

(C) "Contract" means a contract to provide roofing 13
services and includes the entire cost of the construction 14
undertaking, including labor, materials, rentals, and all direct 15
and indirect project expenses. 16

(D) "Contractor" means a person engaged in roofing 17

services for a fee or who offers to engage in or solicits 18
roofing services for a fee. "Contractor" does not include any of 19
the following: 20

(1) The owner of a residential or farm property, when the 21
owner performs roofing services on that property; 22

(2) An employee of the owner of a residential or farm 23
property, when the employee performs roofing services on that 24
property; 25

(3) An authorized employee or representative of the United 26
States government, this state, or a political subdivision, when 27
the employee or representative performs roofing services on 28
property owned by that governmental entity; 29

(4) A person who furnishes any fabricated or finished 30
product, material, or article of merchandise that is not 31
incorporated into or attached to real property by the consumer 32
so as to become affixed to the property; 33

(5) A person who is acting as a contractor's employee or 34
as a subcontractor. 35

(E) "Employee" means an individual who performs work in 36
exchange for compensation that is reported as income from wages. 37

(F) "Person" includes any individual, partnership, 38
corporation, business, trust, or other legal entity. 39

(G) "Principal business address" does not include a post 40
office box. 41

(H) "Roofing services" means the installation, renovation, 42
repair, maintenance, alteration, or waterproofing of any roof, 43
gutter, downspout, or siding product with regard to a 44
residential premises. 45

(I) "Subcontractor" means a person, other than a contractor's employee, who undertakes, offers to undertake, agrees to perform, or is otherwise awarded a portion of an existing contract by a contractor. 46
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Sec. 4740.21. (A) (1) Except as otherwise provided in division (A) (2) of this section, beginning on the thirtieth day after the effective date of this section, no contractor shall undertake, offer to undertake, or agree to perform roofing services unless the contractor is registered under this section. 50
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(2) A contractor who is a party to a contract that was signed before the effective date of this section and who is not registered under this section may complete the contract. 55
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(B) A person seeking to be registered as a contractor shall submit an application to the board that includes all of the following: 58
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(1) The person's name, principal business address, telephone number, and, if applicable, the person's web site address and electronic mail address; 61
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(2) The names and principal business addresses of all of the person's affiliates, subsidiaries, owners, partners, trustees, officers, directors, or principal shareholders. Those names and addresses are not public records for purposes of section 149.43 of the Revised Code, and the board shall keep those names and addresses confidential and shall not disclose those names and addresses. 64
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(3) A statement of whether the person or the person's owner, partner, trustee, officer, director, or principal shareholder previously has been registered in this state as a contractor, under what other names the person or the person's 71
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owner, partner, trustee, officer, director, or principal 75
shareholder was registered, whether that registration was 76
suspended or revoked, and whether any civil judgments or 77
arbitration awards have been entered against the person or the 78
person's owner, partner, trustee, officer, director, or 79
principal shareholder; 80

(4) Proof of the insurance required under division (A) (1) 81
of section 4740.24 of the Revised Code, if the board requires 82
that proof by rule adopted under section 4740.25 of the Revised 83
Code. 84

(C) The board may require by rule adopted under section 85
4740.25 of the Revised Code a fee not to exceed one hundred 86
dollars for registering a contractor under this section. 87

(D) The board may deny, restrict, suspend, or revoke a 88
person's contractor registration if the board finds that the 89
person or the person's owner, partner, trustee, officer, 90
director, or principal shareholder has done any of the 91
following: 92

(1) Committed fraud, deceit, or misrepresentation in the 93
registration process; 94

(2) Practiced or attempted to practice roofing services by 95
fraudulent misrepresentation; 96

(3) Committed an act of gross malpractice or incompetence; 97

(4) Been convicted of a criminal offense that indicates 98
unfitness or incompetence to practice as a contractor or that 99
indicates that the person or the person's partner, trustee, 100
officer, director, or principal shareholder has deceived or 101
defrauded a member of the public. The board shall adopt rules 102
under section 4740.25 of the Revised Code setting forth the 103

disqualifying offenses for purposes of this division. In 104
adopting those rules, the board shall consider the workforce 105
needs of the roofing industry. 106

(5) Been declared incompetent by a court of competent 107
jurisdiction; 108

(6) Knowingly violated any provision of sections 4740.20 109
to 4740.26 of the Revised Code or of any rule adopted by the 110
board under section 4740.25 of the Revised Code; 111

(7) Had a contractor license or registration suspended or 112
revoked in this state or in any other jurisdiction; 113

(8) Failed to maintain the insurance required by division 114
(A)(1) of section 4740.24 of the Revised Code; 115

(9) Failed or refused to pay taxes due in this state; 116

(10) Failed to comply with section 1703.03 or 1705.54 of 117
the Revised Code. 118

(E) The board may accelerate the registration of any 119
person who is registered or licensed and in good standing as a 120
contractor in another state with similar registration or 121
licensing standards. 122

(F) The board shall issue a certificate of registration to 123
a contractor registered under this section. The certificate 124
shall contain a unique registration number and any other 125
information the board considers appropriate, shall not be 126
transferable, and shall be valid from the date of issuance. 127

(G) The board may adopt rules under section 4740.25 of the 128
Revised Code requiring periodic renewal of a contractor 129
registration and a renewal fee not to exceed one hundred 130
dollars. 131

(H) If the board becomes aware that a person has failed to 132
comply with section 1703.03 or 1705.54 of the Revised Code, the 133
board promptly shall inform the secretary of state of that fact. 134

Sec. 4740.22. The requirements of this section apply with 135
respect to a contract for roofing services for an amount greater 136
than seven hundred fifty dollars. 137

(A) The contract shall be in writing and shall include all 138
of the following: 139

(1) The complete agreement between the consumer and the 140
contractor, including a clear description of any other documents 141
that are or will be incorporated into the contract; 142

(2) The contractor's full legal name, business names, 143
principal business address, telephone number, electronic mail 144
address, if available, and registration number issued under 145
section 4740.21 of the Revised Code; 146

(3) A description of the contractor's insurance coverage 147
as described in division (A)(1) of section 4740.24 of the 148
Revised Code, including the insurance policy limits, the 149
effective dates of applicable policies, and the name of the 150
insurer; 151

(4) An itemized description of the work to be done, the 152
cost of labor, and the materials to be used in performing the 153
contract; 154

(5) The total amount agreed to be paid for the work to be 155
performed under the contract, including all change orders and 156
work orders; 157

(6) An approximation of the cost expected to be borne by 158
the consumer, if some or all of the cost will be paid by the 159

consumer's insurer; 160

(7) A provision allowing payment to be made by cash, 161
check, or credit card, at the consumer's discretion; 162

(8) The signatures of all persons party to the contract; 163

(9) In immediate proximity to the space reserved for the 164
consumer's signature, a statement in substantially the following 165
form and in at least ten-point boldface type: 166

"You may cancel this contract not later than the third 167
business day after entering into this contract. If this contract 168
is related to an insurance claim, you may also cancel the 169
contract not later than the third business day after you are 170
notified that your insurer has denied all or any part of a claim 171
or loss related to the contract. See the attached notice of 172
cancellation form for an explanation of this right." 173

(10) A fully completed form in duplicate, captioned 174
"NOTICE OF CANCELLATION," which shall be attached to the 175
contract but easily detachable, and which shall contain the 176
following statement in at least ten-point boldface type: 177

"NOTICE OF CANCELLATION 178

You may cancel this contract not later than the third 179
business day after entering into the contract. If this contract 180
is related to an insurance claim, you may also cancel the 181
contract not later than the third business day after you are 182
notified that your insurer has denied all or any part of your 183
claim or loss. You may cancel the contract by mailing or 184
delivering a signed and dated copy of this cancellation notice 185
or any other written notice to (name of contractor) at 186
(contractor's principal business address) at any time before the 187
applicable deadline. You may also send a cancellation notice 188

through electronic mail if the contractor has provided an 189
electronic mail address. If you cancel, any payments you have 190
made under the contract will be returned to you, less a 191
reasonable charge for any services and materials provided, not 192
later than the tenth business day after you send the 193
cancellation notice to the contractor, and any security interest 194
arising out of the transaction will be canceled. You must retain 195
a copy of the cancellation notice. 196

I HEREBY CANCEL THIS TRANSACTION 197

..... 198

(Date) 199

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(Signature)" 201

(B) At the time the contract is signed, the contractor 202
shall provide to the consumer a copy of the contract signed by 203
both the contractor and the consumer. No work shall begin before 204
the contract is signed and a copy of the contract is provided to 205
the consumer. 206

Sec. 4740.23. (A) A consumer may cancel a contract for 207
roofing services not later than the third business day after the 208
consumer enters into the contract. A consumer who has entered 209
into a contract that is to be paid from the proceeds of a 210
property or casualty insurance policy claim also may cancel the 211
contract not later than the third business day after the 212
consumer receives written notice from the insurer that all or 213
any part of the claim in question is not covered under the 214
insurance policy. 215

(B) A notice of cancellation is not required to be in any 216

particular form and is sufficient if it indicates, by any form 217
of written expression, the consumer's intention not to be bound 218
by the contract. The consumer shall retain a copy of the 219
cancellation notice for a reasonable period of time. 220

(C) A contract is canceled when the consumer gives written 221
notice of cancellation to the contractor at the principal 222
business address or, if applicable, electronic mail address, 223
stated in the contract. If the consumer gives notice of 224
cancellation by mail, the cancellation is effective when the 225
consumer deposits the notice into the United States mail, 226
postage prepaid, and properly addressed to the contractor. 227

(D) Not later than the tenth business day after a contract 228
is canceled, the contractor shall tender to the consumer or to 229
the possessor of the residential premises any payments, partial 230
payments, or deposits made by the consumer and any note of 231
indebtedness, except that if the contractor has performed 232
services or provided materials that have been acknowledged by 233
the consumer in writing, the contractor shall be entitled to the 234
reasonable value of those services or materials. 235

Sec. 4740.24. (A) A contractor shall do all of the 236
following: 237

(1) Obtain all of the following in the name of the 238
contractor and maintain them in full force and effect while the 239
contractor is providing roofing services: 240

(a) Workers' compensation insurance; 241

(b) Contractor liability insurance, including completed 242
operations coverage, in an amount of at least five hundred 243
thousand dollars. 244

(c) A surety license bond in an amount determined by the 245

board by rule adopted under section 4740.25 of the Revised Code. 246

(2) Maintain a list of all subcontractors who have 247
performed work under any contract under which the contractor has 248
begun work during the past three years. The list shall include, 249
at a minimum, each subcontractor's full legal name and principal 250
business address. 251

(3) Notify the board within thirty business days of 252
changing the contractor's trade name or principal business 253
address or of providing roofing services in any name other than 254
the one in which the contractor is registered. 255

(B) A contractor shall not do any of the following: 256

(1) Advertise, promise to pay, or rebate any portion of an 257
insurance deductible as an inducement to the sale of goods or 258
services, including granting an allowance or offering a discount 259
against the fees to be charged or paying the consumer, or any 260
person directly or indirectly associated with the property in 261
question, any form of compensation, except as permitted under 262
division (B)(2) of this section; 263

(2) Induce the sale of goods or services by doing any of 264
the following: 265

(a) Offering or providing any upgraded work, material, or 266
product not specified in the contract, unless the contractor and 267
the consumer sign a written addendum to the contract that 268
provides for that upgraded work, material, or product; 269

(b) Granting any allowance or offering any discount 270
against the fees to be charged, unless the allowance or discount 271
is specified in the contract or unless the contractor and the 272
consumer sign a written addendum to the contract that provides 273
for that allowance or discount; 274

<u>(c) Paying to the consumer, or to any other person</u>	275
<u>directly or indirectly associated with the property in question,</u>	276
<u>any form of compensation, including a gift, prize, bonus,</u>	277
<u>coupon, credit, referral fee, trade-in or trade-in payment,</u>	278
<u>advertising, or other fee or payment, unless the compensation is</u>	279
<u>specified in the contract or unless the contractor and the</u>	280
<u>consumer sign a written addendum to the contract that provides</u>	281
<u>for that compensation;</u>	282
<u>(3) Require a deposit of more than one-half of the</u>	283
<u>contract price;</u>	284
<u>(4) Abandon or fail to perform, without justification, any</u>	285
<u>ongoing contract or deviate from or disregard plans or</u>	286
<u>specifications in any material respect without the consent of</u>	287
<u>the consumer;</u>	288
<u>(5) Fail to credit the consumer for any payment the</u>	289
<u>consumer has made to the contractor in connection with the</u>	290
<u>contract;</u>	291
<u>(6) Make any material misrepresentation in the procurement</u>	292
<u>of a contract or make any false promise likely to influence,</u>	293
<u>persuade, or induce the procurement of a contract;</u>	294
<u>(7) Violate any applicable state or local building code;</u>	295
<u>(8) Fail to pay for materials or services rendered in</u>	296
<u>connection with operating as a contractor, if the contractor has</u>	297
<u>received sufficient funds as payment for the particular</u>	298
<u>construction work, project, or operation for which the services</u>	299
<u>or materials were rendered or purchased;</u>	300
<u>(9) Report, adjust, or negotiate a claim on behalf of a</u>	301
<u>consumer or receive compensation for referring a claim to any</u>	302
<u>person who reports, adjusts, or negotiates a claim on behalf of</u>	303

<u>a consumer;</u>	304
<u>(10) Fail to possess any insurance required under state,</u>	305
<u>federal, or local laws;</u>	306
<u>(11) Seek or obtain a power of attorney on behalf of a</u>	307
<u>consumer;</u>	308
<u>(12) Represent, negotiate, obtain, or attempt to obtain an</u>	309
<u>assignment of claims, rights, benefits, or proceeds from a</u>	310
<u>consumer;</u>	311
<u>(13) Offer or advertise to represent, negotiate, obtain,</u>	312
<u>or attempt to obtain an assignment of claims, rights, benefits,</u>	313
<u>or proceeds from a consumer;</u>	314
<u>(14) Knowingly award a portion of a contract to, or</u>	315
<u>otherwise engage, a subcontractor who is ineligible to register</u>	316
<u>as a contractor under division (D) of section 4740.21 of the</u>	317
<u>Revised Code.</u>	318
<u>(C) A contractor may provide information or a professional</u>	319
<u>opinion about a claim directly to a consumer.</u>	320
<u>Sec. 4740.25. (A) The board shall adopt rules under</u>	321
<u>Chapter 119. of the Revised Code as necessary to carry out the</u>	322
<u>provisions of sections 4740.20 to 4740.26 of the Revised Code.</u>	323
<u>(B) The board shall enforce the requirements of sections</u>	324
<u>4740.20 to 4740.26 of the Revised Code. For any violation of</u>	325
<u>those sections or of any administrative rules adopted under this</u>	326
<u>section, the board may impose a reasonable fine in an amount not</u>	327
<u>to exceed the contract price plus any administrative costs. In</u>	328
<u>determining whether and in what amount to impose a fine under</u>	329
<u>this division, the board shall consider the seriousness of the</u>	330
<u>violation, the impact of the violation on the injured party, any</u>	331

mitigating factors on the part of the violator, and any previous 332
violations committed by the violator. When the board imposes a 333
fine under this division, the violator shall pay the fine not 334
later than thirty days after the board issues the order imposing 335
the fine. 336

Sec. 4740.26. Sections 4740.20 to 4740.25 of the Revised 337
Code shall not be construed to limit or diminish any rights or 338
remedies available under sections 1345.21 to 1345.28 of the 339
Revised Code. 340

Section 2. Sections 4740.20, 4740.21, 4740.22, 4740.23, 341
4740.24, 4740.25, 4740.26, 4740.27, 4740.28, and 4740.29 of the 342
Revised Code, as enacted by this act, shall take effect on the 343
ninetieth day after the effective date of this act. 344

Section 3. The intent of the General Assembly in enacting 345
this act is to establish minimum standards for roofing contracts 346
and to promote fair and honest practices in the roofing services 347
business. 348